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In re Application of
REMERICQ, Maurice
PCT No.: PCT/FR99/01047 : DECISION ON PETITION
U.S. Application No.: 09/463,294 :
International Filing Date: 03 May 1999 :
Priority Date: 22 May 1998 :
Attorney's Docket No.: T2154-906320 :
For: METHOD FOR ALTERNATING THE
STACKING DIRECTION OF FLAT AND
FLEXIBLE OBJECTS ... :
:

This decision is issued in response to the "Request For Reconsideration Of Notification Of Abandonment" filed 03 August 2001. No petition fee is required.

BACKGROUND

On 03 May 1999, applicant filed international application PCT/FR99/01047 which claimed a priority date of 22 May 1998 and which designated the United States. On 02 December 1999, a copy of the international application was communicated to the United States Patent and Trademark Office ("USPTO") by the International Bureau ("IB").

A Demand was not filed with the International Preliminary Examining Authority electing the United States. As a result, the deadline for payment of the basic national fee was twenty months from the priority date, i.e., 24 January 2000 (22 January 2000 was a Saturday).

On 24 January 2000, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by, among other materials, payment of the basic national fee. The transmittal letter also stated that a translation of the international application into English was also attached; however, no such translation is present in the application file.

On 10 April 2000, the United States Designated/Elected Office (DO/EO/US) mailed a Notification Of Missing Requirements (Form PCT/DO/EO/905) indicating that applicant was required to submit the following: (1) an English translation of the international application; (2) the \$130 surcharge for filing the translation later than twenty months after the priority date; and (3) an oath or declaration in compliance with 37 CFR 1.497. The Notification also informed applicant that the failure to submit these materials within one month of the date of the Notification would result in abandonment of the application.

On 03 May 2000, applicant filed a response to the Notification Of Missing Requirements which included, among other materials, an executed declaration. The response did not include the required translation, stating instead that the translation had been filed on 24 January 2000.

On 31 May 2000, the DO/EO/US mailed a Notification Of A Defective Response (Form PCT/DO/EO/916) and a Notification Of A Defective Translation (Form PCT/DO/EO/917) indicating that a translation of the specification and claims was still required. The Notifications also indicated that the failure to submit the required translation within one month would result in abandonment.

On 03 July 2001, the DO/EO/US mailed a Notification Of Abandonment (Form PCT/DO/EO/909) indicating that the application is abandoned with respect to the United States for failure to properly respond to the Notification Of Missing Requirements.

On 03 August 2001, applicant filed the "Request For Reconsideration Of Notification Of Abandonment" considered herein. This Request For Reconsideration refers to the response to the Notification Of Missing Requirements filed on 03 May 2000 (copies of which are attached, along with a stamped return postcard) and asserts that, based on applicant's previous response, the Notification Of Abandonment mailed on 03 July 2001 should be withdrawn.

DISCUSSION

This application became abandoned based on applicant's failure to file the English translation of the international application (and related processing fee) in response to the Notification Of Missing Requirements mailed 10 April 2000 and the Notification Of A Defective Response and Notification Of A Defective Translation mailed 31 May 2000. The present submission does not include a copy of the missing English translation of the international application, nor does it provide any evidence that the translation was previously filed (i.e., a stamped return postcard itemizing the English translation). Absent the submission by applicant of a copy of the English translation and evidence that such translation was in fact filed on 24 January 2000, the present holding of abandonment remains appropriate.

CONCLUSION

Applicant's Request For Reconsideration Of Notification Of Abandonment is **DISMISSED** without prejudice.

Applicant must provide an English translation of the international application and either: (1) evidence that this translation was filed by applicant, as claimed, on 24 January 2000; or (2) a grantable petition to revive the international application. Until such a submission is made, this application remains **ABANDONED** with respect to the United States.

Please direct further correspondence with respect to this matter to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the International Division, Legal Staff.



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